

BEFORE THE SUPREME COURT COMMITTEE ON PROFESSIONAL CONDUCT
PANEL A

IN RE: TERRY GOODWIN JONES
ARKANSAS BAR No. 2000-090
CPC DOCKET No. 2007-117

FILED

MAR 21 2008

**LESLIE W. STEEN
CLERK**

CONSENT FINDINGS AND ORDER

The formal charges of misconduct upon which this Findings and Order is based arose from information provided to the Committee by a referral from the Arkansas Supreme Court in the case of Jerry L. Pearson v. State of Arkansas, CR 2006-486. The referral related to the representation of Ms. Jones by Mr. Khoury in 2007.

Terry Goodwin Jones represented Jerry L. Pearson in a criminal case in Craighead County Circuit Court, Western Division, Case No. CR06-486. On December 1, 2006, Mr. Pearson was convicted of four counts of rape and sentenced to four consecutive terms of forty (40) years in the Arkansas Department of Correction. Ms. Jones filed a timely Notice of Appeal on December 28, 2006. The record was timely filed on March 28, 2007.

Upon receipt of the record, the Arkansas Supreme Court Clerk's Office then issued a briefing schedule. According to the Clerk's docket sheet, a brief on Mr. Pearson's behalf was due to be filed on or before May 7, 2007. No brief was filed on or before May 7, 2007, on Mr. Pearson's behalf.

On May 30, 2007, the State of Arkansas filed a Motion to Dismiss for failure to file a brief on Mr. Pearson's behalf. The Arkansas Court of Appeals denied the State's Motion to Dismiss on June 20, 2007. In a letter ruling, the Court stated that brief on Mr. Pearson's behalf was due to be filed on or before July 20, 2007.

On August 10, 2007, the State of Arkansas filed a Second Motion to Dismiss for failure to

file a brief on Mr. Pearson's behalf. The Arkansas Court of Appeals denied the State's Second Motion to Dismiss and issued a *Per Curiam* Order on September 5, 2007. In its Order, the Court outlined the sequence of events set forth herein. The Court stated that while the Court's rules allow it to dismiss an appeal for failure to prosecute an appeal, an indigent criminal appellant has a right to an appeal and to a competent attorney to assist in that right. The Court therein relieved Ms. Jones from further representation in the matter and appointed new counsel to represent the interests of Mr. Pearson.

Ms. Jones responded by stating that it is her practice to prepare a notice of appeal immediately following trial. After the notice of appeal was prepared in this case, she went and spoke to her client and discussed the trial with her. Ms. Jones reviewed with her client the merit of an appeal and he chose not to appeal. The notice of appeal was, however, filed. Ms. Jones stated that she changed her mailing address around the time of this matter and any notices or correspondence sent to her by the Clerk's office or the Attorney General was sent to the old address. When the notices were finally forwarded to her new address, the time for her to act as contained in the notices had expired.

Ms. Jones stated that, as a result of the delayed mailings, she did not know of the orders or deadlines for which she was to comply. She stated that had she known of the orders or deadlines, she would have complied with them.

Ms. Jones stated that she did not deliberately engage in conduct which resulted in the delay of justice and, had she believed that her client wanted an appeal, she would have followed up in compliance with the scheduling order.

Upon consideration of the formal complaint and attached exhibit materials, the consent

proposal, and other matters before it, and the Arkansas Rules of Professional Conduct, Panel A of the Arkansas Supreme Court Committee on Professional Conduct finds:

1. TERRY GOODWIN JONES violated Model Rule 1.3 when she failed to file a brief on or before May 7, 2007, on behalf of her client, Jerry Pearson, following the issuance of a scheduling order by the Arkansas Supreme Court Clerk in the case of Jerry Pearson v. State of Arkansas, Arkansas Court of Appeals Case No. CACR-2007-311, and when she failed to file a brief on or before July 20, 2007, on behalf of her client, Jerry Pearson, following the issuance of a June 20, 2007, *Per Curiam* Order of the Arkansas Court of Appeals in the case of Jerry Pearson v. State of Arkansas, Arkansas Court of Appeals Case No. CACR-2007-311. Rule 1.3 requires that a lawyer act with reasonable diligence and promptness in representing a client.

2. TERRY GOODWIN JONES violated Model Rule 3.4(c) when she failed to comply with the scheduling order issued by the Arkansas Supreme Court Clerk pursuant to Rule 4-3(a) of the Arkansas Rules of Supreme Court when she failed to file a brief on or before May 7, 2007, on behalf of her client, Jerry Pearson in the case of Jerry Pearson v. State of Arkansas, Arkansas Court of Appeals Case No. CACR-2007-311 and when she failed to comply with a June 20, 2007, *Per Curiam* Order of the Arkansas Court of Appeals directing her to file a brief on or before July 20, 2007, on behalf of her client, Jerry Pearson, in the case of Jerry Pearson v. State of Arkansas, Arkansas Court of Appeals Case No. CACR-2007-311. Rule 3.4(c) requires that a lawyer not knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists.

3. TERRY GOODWIN JONES violated Model Rule 8.4(d) when she failed to file a brief on or before May 7, 2007, on behalf of her client, Jerry Pearson, which resulted in a delay in the

orderly and timely resolution of appellate proceedings; when she failed to file a brief on or before July 20, 2007, on behalf of her client, Jerry Pearson, which resulted in a delay in the orderly and timely resolution of appellate proceedings; when she failed to file a brief on or before May 7, 2007, on behalf of her client, Jerry Pearson, which required the Court to expend additional time and effort which would not have been necessary otherwise; and, when she failed to file a brief on or before July 20, 2007, on behalf of her client, Jerry Pearson, which required the Court to expend additional time and effort which would not have been necessary otherwise. Rule 8.4(d) requires that a lawyer not engage in conduct that is prejudicial to the administration of justice.

WHEREFORE, it is the decision and order of the Arkansas Supreme Court Committee on Professional Conduct, acting through its authorized Panel A, that TERRY GOODWIN JONES, Arkansas Bar ID# 75070, be, and hereby is, CAUTIONED and assessed costs in the amount of Fifty Dollars (\$50.00) for her conduct in this matter. The costs assessed herein shall be payable by cashier's check or money order payable to the "Clerk, Arkansas Supreme Court" delivered to the Office of Professional Conduct within thirty (30) days of the date this Findings and Order is filed of record with the Clerk of the Arkansas Supreme Court.

ARKANSAS SUPREME COURT COMMITTEE ON
PROFESSIONAL CONDUCT - PANEL A

By: Steven Shults
Steven Shults, Chair, Panel A

Date: March 21, 2008